

Remarks

The abstract of the disclosure is being objected due to implied phrases. The abstract has been amended as suggested by the Examiner such that this objection is believed overcome.

The drawings are being objected to as they do not show “the position *ahead* of the normal position as described in the Brief Description of the Accompanying Drawings”. Applicant is confused by this objection as Figures 1-3, along with the accompanying description, clearly illustrate the sequential movement of the pedal assembly from a normal or deactivated position to a safety or released position. Specifically, the position ‘ahead’ of the normal position is shown in Figure 3. In any event, Applicant has amended the description of the drawings to remove any potential confusion.

After entry of the subject Amendment, claims 2-5, 12-13 and 15-25 will be pending in the application with claim 12 being in independent form. Claim 12 has been amended. Claim 14 is currently being cancelled and claims 1 and 6-11 were previously cancelled. Claims 2-5, 13 and 15-25 are unchanged.

Claims 12-22 stand rejected under 35 U.S.C. §112 as being indefinite. Specifically, the Examiner contends that the term “movable” in claim 12 is vague and indefinite as not being required and analogizes this term to the vague terms of “discardable”, “crimpable”, “removable” and “comparable”. Again, Applicant is confused by this rejection. The movable term in claim 12 is germane to the entire invention and is the whole purpose of the invention in the first place. There would clearly be no need for the inventive components of the safety device and the locking device if the safety device didn’t move.

The Examiner also contends that the claimed normal and safety positions in claim 12 are unclear and requests that the Applicant identify the Figures in which these positions are present. As stated above, Figures 1-3 illustrate the sequential movement of the safety device and locking device. Specifically, Figure 1 illustrates the safety device in the normal position with the locking device engaging the safety device. Figure 2 illustrates

the locking device disengaging the safety device with the safety device remaining in the normal position. Figure 3, illustrates the safety device moving to the safety position.

In light of the above clarification and discussion, the §112 rejections are believed overcome.

Claims 12-14 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0007693 to Mueller et al. Claims 12 and 15-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application Publication No. 2003/0019319 to Mizuma. Claim 22 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Mizuma in view of Mueller et al. Claim 21 is allowable if placed in independent form and rewritten to overcome the §112 rejections.

Applicant thanks the Examiner for the allowance of dependent claim 21. However, it is believed unnecessary to accept the allowable subject matter as independent claim 12 is believed allowable over the prior art of record.

Claim 12 has been amended to include the limitations from previous dependent claim 14. As such, Applicant respectfully traverses the anticipation rejection of claim 14 based on Mueller et al.

Specifically, the Examiner identifies the safety device of Mueller et al. as reference numeral “1” and the locking device as reference numeral “11”. These are actually the same part. As clearly set forth in the Figures and paragraph numbers 0052 and 0062 of Mueller et al., the safety device 1 is the fixing 11. The terms ‘safety device’ and ‘fixing’ are also used interchangeably in paragraphs 0041, 0042, 0050 and 0051 in Mueller et al.

The claimed invention, however, sets forth two separate and distinct components as the safety device and the locking device. In the preferred embodiment of claims 1-3, which is not intended to limit the scope of claim 12, the safety device is shown as a pair of fulcrums 7,8 and the locking device is shown as a pair of arms 14,15 with a plate 16 extending between the arms. The more specific features of the safety device shown in Figures 1-3 are set forth in claims 15-19 and the more specific features of the locking device shown in Figures 1-3 are set forth in claims 20-22.

Mueller et al. therefore does not disclose or suggest the unique and non-obvious combination of components as set forth in claim 12. As such, independent claim 12 is believed to be in condition for allowance. Claims 13 and 15-22 are also believed to be in condition for allowance as these claims depend from the unique and non-obvious features of claim 12.

Further, claim 12 remains generic to both the species of Figures 1-3 and the species of Figures 4-5. As such, Applicant respectfully requests rejoinder of claims 2-5 and 23-25. These claims are also allowable as they depend from the unique and non-obvious features of claim 12.

The remaining references cited but not applied to the claims have been considered. Since the Examiner has apparently considered these references as less pertinent than the above discussed reference(s), further discussion of the non-applied references, at this time, is considered unnecessary. However, it is respectfully submitted that the claims in the subject patent application patentably define over all references of record either independently or in combination.

Accordingly, it is respectfully submitted that the Application, as amended, is now presented in condition for allowance, which allowance is respectfully solicited. The Commissioner is authorized to charge our Deposit Account No. 08-2789 in the name of Howard & Howard Attorneys, P.C. for any fees or credit the account for any overpayment.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, P.C.

Dated: November 3, 2008

/SAMUEL J. HAIDLE/

Samuel J. Haidle, Registration No. 42,619
The Pinehurst Office Center
39400 Woodward Avenue, Suite 101
Bloomfield Hills, MI 48304-5151
(248) 723-0334